

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0467-02
Bill No.: HCS for HB 154
Subject: Law Enforcement Officers and Agencies
Type: Original
Date: February 22, 2011

Bill Summary: This proposal specifies that prisoners who commit sexual misconduct in the second degree in the presence of a minor or a person working in a jail, prison, or correctional facility shall be guilty of a class D felony. It also requires inmates incarcerated for sexual assault offenses to successfully complete treatment programs prior to being eligible for parole or conditional release. It also authorizes the Director of the Department of Corrections to establish a mental assessment pilot program.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	(Unknown - less than \$100,000)	(Unknown - less than \$100,000)	(Unknown - less than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Unknown - less than \$100,000)	(Unknown - less than \$100,000)	(Unknown - less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Federal Funds	Unknown	Unknown	Unknown
Total Estimated Net Effect on <u>All</u> Federal Funds	Unknown	Unknown	Unknown

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety-Missouri State Highway Patrol** state this proposal will have no fiscal impact on their agency.

Officials from the **Office of State Courts Administrator** state this proposal will have no fiscal impact on the Courts.

Officials from the **Office of the State Public Defender (SPD)** cannot assume existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the proposed new crime of committing sexual conduct in the second degree in the presence of a minor or a person working in a jail, prison, or correctional facility would become a new Class D felony. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional appropriations for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

Oversight assumes the Office of the State Public Defender (SPD) could absorb the costs of the proposed legislation within existing resources. Oversight assumes any significant increase in the workload of the SPD would be reflected in future budget requests.

Officials from the **Attorney General's Office** assume that any potential costs arising from this proposal can be absorbed with existing resources.

In response to a previous version of this proposal, officials from the **Department of Corrections (DOC)** stated that, currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court. If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase of direct offender costs either through incarceration (FY 10 average of \$16.40 per offender, per day, or an annual costs of \$5,986 per inmate) or through supervision provided by the Board of Probation and Parole (FY10 average of \$3.92 per offender, per day or an annual cost of \$1,431 per offender).

In summary, supervision by the DOC through probation would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

ASSUMPTION (continued)

Also, in response to a similar proposal from this year (HB 384) that made changes to section 584.040, officials from the **Department of Corrections** stated offenders currently complete their treatment programs before being considered for parole or conditional release so passage of this proposal would not fiscally impact their agency.

Also, in response to a similar proposal from this year (HB 302) that proposed a mental health assessment program in Section 559.117, officials from the **Department of Corrections** stated this bill authorizes the DOC to establish a pilot program for an offender mental health assessment process. The DOC anticipates an Unknown positive fiscal impact if this bill were passed into law. Offenders who previously would have been incarcerated would be released on probation after completing the 120-day mental health assessment and treatment program. Normally, terms of incarceration require offenders to serve more than a 120-day prison term. In summary, fiscal impact for the DOC is a positive Unknown amount.

Officials from the **Department of Mental Health (DMH)** state should DMH funded community programs be required, it is assumed that the department would only be able to provide treatment within the limits of existing appropriations and requirements to serve other higher priority target populations. DMH assumes no fiscal impact from the proposal. DMH states the Community Psychiatric Rehabilitation program, for FY 2008, cost an average of \$6,241 per person.

Oversight assumes this proposal authorizes a pilot program only within participating counties. Oversight assumes the pilot program would result in a net negative fiscal impact to the state; however, Oversight assumes there would not be a large enough number of offenders in the pilot program to cost the state over \$100,000 in any of the first three years.

According to the Department of Corrections, the annual cost for incarceration is \$5,985 per inmate, while the annual cost for probation and parole is \$1,431 per offender. If an offender is released on probation after the 120 day assessment period and participates in the Community Psychiatric Rehabilitation (CPR) program, the state would realize a savings of \$4,554 (\$5,985 - \$1,431) within the DOC; however, the state may realize an corresponding cost of \$6,241 within the DMH (average cost of the CPR program in FY 2008). The net fiscal impact of the two agencies would be a loss of \$1,687. According to the DMH website, the CPR program is a Medicaid supported program; therefore, the federal government would pay approximately 60 percent of the costs for eligible clients.

ASSUMPTION (continued)

Oversight assumes there are various unknowns within this proposal that make the determination of a fiscal impact difficult, including:

- How many counties will participate in the pilot program;
- How many motions would be filed by prosecutors to request that an offender participate in the pilot program;
- How many of these motions would be accepted by judges;
- After the initial 120 day mental health assessment, the sentencing court may release the offender on probation;
- Will the offender qualify for Medicaid reimbursement from the Federal Government. Roughly 27 offenders within the CPR program would have to be eligible for the 60% Medicaid reimbursement to reach \$100,000 per year ($\$100,000 / (\$6,241 \times 60\%)$) in federal reimbursement.

Officials from the **Office of Prosecution Services** did not respond to a request for fiscal note.

<u>FISCAL IMPACT - State Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
GENERAL REVENUE			
<u>Savings</u> - Department of Corrections Offenders who previously would have been incarcerated would be released on probation after completing the 120 day mental health assessment and treatment program	Unknown	Unknown	Unknown
<u>Costs</u> - Department of Mental Health Offenders within the pilot program now under the Community Psychiatric Rehabilitation program	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	(Unknown - less than <u>\$100,000</u>)	(Unknown - less than <u>\$100,000</u>)	(Unknown - less than <u>\$100,000</u>)

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2012 (10 Mo.)	FY 2013	FY 2014
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FEDERAL FUNDS

<u>Income</u> - Department of Mental Health Potential 60% Medicaid reimbursement for eligible clients within the CPR program	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
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ESTIMATED NET EFFECT TO FEDERAL FUNDS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2012 (10 Mo.)	FY 2013	FY 2014
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill authorizes the Director of the Department of Corrections to establish, as a three-year pilot program, a mental health assessment process. Upon a motion filed by the prosecutor in a criminal case, the judge who is hearing the case may request that an offender be placed in the department for 120 days for a mental health assessment and for treatment if it appears that the person has a mental disorder or illness that may qualify him or her for probation including community psychiatric rehabilitation programs and the probation is appropriate and consistent with public safety. Before the judge rules on the motion, the victim must be given the opportunity to be heard by the court. Upon recommendation of the court, the department must determine the offender's eligibility for the mental health assessment process.

FISCAL DESCRIPTION (continued)

Following the assessment and treatment period, an assessment report must be sent to the sentencing court. The court, if appropriate, may release the offender on probation who must be supervised by a state probation and parole officer who must work with the Department of Mental Health to enroll eligible offenders in community psychiatric rehabilitation programs. A person convicted of certain specified serious offenses, any offense where probation or parole is prohibited, or who has been found to be a predatory sexual offender is not eligible for probation.

At the end of the three-year pilot, the directors of the departments of Corrections and Mental Health must jointly submit recommendations by December 31, 2014, to the Governor and General Assembly on whether to expand the process statewide.

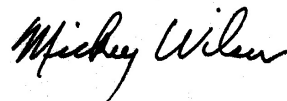
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Public Safety
Department of Corrections
Office of State Courts Administrator
Office of State Public Defender
Department of Mental Health
Office of the Attorney General

NOT RESPONDING

Office of Prosecution Services



Mickey Wilson, CPA
Director
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